

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOTIMA MANGUNGU and GRACE
MANGUNGU,

Plaintiffs,

v.

CITY OF SEATTLE; SEATTLE POLICE
DEPARTMENT; OFFICER TOM CONRAD
and JANE DOE CONRAD, husband and
wife and the marital community composed
thereof; and SERGEANT STEVEN
JANDOC and JANE DOE JANDOC,
husband and wife and the marital
community composed thereof,

Defendants.

No. C03-1053P

DECLARATION OF JENNIFER A.
TRAN IN SUPPORT OF
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER AND
BIFURCATION

**NOTED ON MOTION CALENDAR:
MONDAY, MARCH 8, 2004**

JENNIFER A. TRAN declares as follows:

1. I am one of the attorneys of record for the defendants in the above-entitled case and make this declaration based on matters known to me and to which I am competent to testify.

DECLARATION OF JENNIFER A. TRAN IN
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1 2. On February 19, 2004, plaintiff's counsel and I conferred regarding the
2 discovery plaintiff had requested from Officers Tom Conrad and Steven Jandoc and the
3 City of Seattle. Over the next week, we exchanged correspondence regarding
4 discovery issues.

5 3. On February 27, 2004 we again conferred for about an hour and a half.
6 What follows is a summary of the discovery issues we discussed.

7 4. We went through the officers' responses and discussed which ones the
8 plaintiff believed was inadequate. After our discussion, the only remaining clarification
9 that plaintiff wanted from Sgt. Jandoc was a statement that, prior to his job at the SPD,
10 he was not employed elsewhere on a full-time basis. Plaintiff stated that Sgt. Jandoc's
11 response, "N/A" was confusing. Plaintiff did not ask for clarification for any other
12 interrogatories propounded to the officers.

13 5. We further agreed to enter into a discovery stipulation which would make
14 the officers' financial information available to the plaintiff if, and only if, the jury found the
15 officers' personally liable, and awarded the plaintiff punitive damages.

16 6. After discussing the propriety of the IIS files pertaining to general
17 misconduct allegations, plaintiff agreed to withdraw his request for IIS files relating to all
18 and any allegations of Seattle Police misconduct. The City agreed, as it expressly did in
19 answers to requests for production, that it would present for *in camera* review the IIS
20 files relating to the individually named defendant officers for a judicial determination of
21 the files' relevance.

22 7. During our conversation, plaintiff also requested whether the City had
23 materials relating to the tracking device used by the officers and training manuals on
24 how to assess a potential risk in the crowd. While plaintiff did not propound these
25 discovery requests on the City of Seattle, I informed plaintiff that I would check with the
26 City to determine whether such documents exist and get back to him.

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1 8. The parties also discussed scheduling of certain witnesses for
2 depositions.

3 9. I also asked plaintiff whether it was necessary for judicial intervention in
4 light of our resolution of nearly every discovery issue and whether it would be more
5 economical for the parties and the court if we both agreed to strike all pending motions.
6 Plaintiff stated that he was not outright rejecting my proposal, that he would consider
7 striking his motion to compel, but noted that an issue of attorney fees remained. He
8 stated that we should revisit the issue early the following week.

9 10. During our conversation, plaintiff further alluded to the fact that he lost
10 time conducting discovery. I informed plaintiff that if he felt he had been prejudiced by
11 the City's delay in producing documents, the City would agree to an extension of time to
12 conduct discovery and possibly move the Court for a continuance of the trial date if
13 necessary. Plaintiff declined and stated that he would withdraw his request for an
14 extension of time, which is contained in his motion to compel.

15 11. Despite the fact that the parties had resolved virtually all disputes, and
16 were working cooperatively with one another, early this week, plaintiff insisted on having
17 a court hearing on plaintiff's motion to compel. When the City asked plaintiff what
18 issues remained, plaintiff responded that, in addition to plaintiff's request for fees, the
19 motion contained a "waiver" argument. According to plaintiff, the City's failure to timely
20 respond to plaintiff's discovery requests amounted to an absolute waiver of any
21 objections the City could have asserted. The position now taken by plaintiff destroys
22 the parties' previous discovery agreements.
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DECLARATION OF JENNIFER A. TRAN IN
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1 I declare under penalty of perjury under the laws of the State of Washington that
2 the foregoing statements are true and correct to the best of my information and belief.

3 DATED this 5th day of March, 2004, at Seattle, Washington.

4 /s/Jennifer Tran via ECF
5 Jenifer A. Tran
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DECLARATION OF JENNIFER A. TRAN IN
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Certificate of Service

I certify that on the date noted below I presented DECLARATION OF JENNIFER A. TRAN IN SUPPORT OF DEFENDANTS' MOTION FOR PROTECTIVE ORDER AND BIFURCATION to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following persons:

Andrew Schwarz
awslaw@wolfnet.com
119 - 1st Avenue, #320
Seattle, WA 98104
(206) 622-9909
FAX: (206) 622-6636
Attorney for Plaintiffs

and I certify that I have caused to be served in the manner noted below a copy of the above-listed document to the following non CM/ECF participants:

☐ Via Facsimile
☐ Via First Class Mail
☐ Via Messenger

DATED this 5th day of March, 2004, at Seattle, Washington.

/s/ Jennifer A. Tran via ECF
Jennifer A. Tran, WSBA #28756

DECLARATION OF JENNIFER A. TRAN IN
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